IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4635 of 2005

1. Shri Babasaheb Anna Patil
and Ors. ... Petitioners

V/s

1. Smt. Shantmati Pasgonda Patil
and Anr. ... Respondents

Surel S. Shah for Petitioners

CORAM:S.A.BOBDE,J.

DATED:18th July, 2005

P.C.:-

1. The original defendant has challenged the order permitting the amendment of the plaint. It appears that the Petitioner had objected to the description of the suit property in the plaint has not been cleared, therefore, the plaintiff appears to have filed the amendment application. This has been allowed by the Court.

2. The learned Counsel for the Petitioner contended that

the amendment is delayed. The delay in my view is not substantial since the stage of evidence has not yet began. Secondly the learned Counsel contended that amendment is bad in view of the fact that by amendment the Respondent has sought to include the property which he has already purchased from his brother whereas the suit is only in respect of the agreement entered into between the Petitioner and Respondent. There is no merit in this contention either it is clear that amendment became necessary because of the Petitioner’s stand in the written statement that the suit property is not properly described. Defendant ought not to have resisted on this ground. Indeed, the amendment shall be taken as allowed without prejudice of right of the Petitioners to oppose the pleadings on merits.

3. The petition is therefore, disposed of.

(S.A.BOBDE, J.)